

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,

Plaintiff,

v.

DEREK D. DABNEY,

Defendant.

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CASE NO. 4:02CR116

ORDER

Before me is Filing No. 153, the Memorandum from the Clerk of Court requesting a decision as to whether the defendant may proceed in forma pauperis ("IFP") on appeal. In Filing No. 138, the defendant has previously been determined to be financially unable to obtain an adequate defense in a criminal case. Fed. R. App. P. 24(a)(3) states:

(a) Leave to Proceed in Forma Pauperis. . . .

(3) Prior Approval. A party who was permitted to proceed in forma pauperis in the district-court action, or who was determined to be financially unable to obtain an adequate defense in a criminal case, may proceed on appeal in forma pauperis without further authorization, unless the district court-- before or after the notice of appeal is filed--certifies that the appeal is not taken in good faith or finds that the party is not otherwise entitled to proceed in forma pauperis. In that event, the district court must state in writing its reasons for the certification or finding.

I conclude that pursuant to Fed. R. App. P. 24(a)(3), the petitioner may proceed IFP in this appeal, as the appeal is taken in good faith.

IT IS SO ORDERED.

DATED this 5th day of December, 2006.

BY THE COURT:

s/ Joseph F. Bataillon

Chief U.S. District Court Judge